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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,995	07/11/2003	Ilan Calderon	1311OBT-US	2778
7590 03/31/2006			EXAMINER	
Dekel Patent Ltd. Beit HaRofim Room 27 18 Menuha VeNahala Street Rehovot, ISRAEL			NGUYEN, HUONG Q	
			ART UNIT	PAPER NUMBER
			3736	
DATE MAILED: 03/31/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,995

Applicant(s)

CALDERON ET AL.

Examiner

Helen Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Drawings***

1. The drawings of **Figure 2** are objected to under 37 CFR 1.83(a) because they appear to fail to clearly show the three-dimensional image of muscle contraction as sensed by the claimed position sensing system, as described on p.5 of the specification. In addition, the inclusion of element numbers would enhance said objected drawing. Applicant is reminded that no new matter may be added while overcoming this drawing objection. Examiner notes that said drawing objection is at least in part due to the 112 rejections described in further detail below.
2. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by

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the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: the last sentence of the second paragraph on p.5 of the specification (“Gal, Aviram...”) should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 1-7** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

6. The disclosure fails to describe or teach one of ordinary skill in the art how the claimed processor operative to process data of the claimed EMG system and the claimed three-dimensional position and orientation information from the at least one position sensor would provide an output that comprises electromyographic activity data as a function of the three-dimensional position and orientation of said at least one position

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sensor. The disclosure fails to describe or teach one of ordinary skill in the art exactly what is meant by electromyographic activity data as “a function of” three-dimensional position and orientation of the at least one position sensor.

7. Examiner notes that said subject matter is only mentioned on p.2 and p.4 (last paragraph) of the specification, using the same language as that recited in the claims.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. **Claims 1-7** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, also evidenced by the enablement problem associated with the disclosure.

10. Specifically, one of ordinary skill in the art is not able to clearly point out and distinctly identify how the claimed processor operative to process data of the claimed EMG system and the claimed three-dimensional position and orientation information from the at least one position sensor would provide an output that comprises electromyographic activity data as a function of the three-dimensional position and orientation of said at least one position sensor. Thus, the claim is indefinite because it fails to distinctly point out to one of ordinary skill in the art exactly what is meant by electromyographic activity data as “a function” of three-dimensional position and orientation of the at least one position sensor.

11. **Claim 6** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

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regards as the invention. **Claim 6** does not seem to be amended properly to depend from Claim 5. Rather, it now appears that Claim 6 is dependent upon Claim 15, which does not exist, rendering Claim 6 indefinite. Appropriate correction is required.

12. Applicant is reminded that no new matter may be added in correcting the above 112 rejections.

Allowable Subject Matter

13. **Claims 1-7** would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. No prior art teaches alone or in combination data output that comprises electromyographic activity data as a function of the three-dimensional position and orientation of at least one position sensor.

Response to Arguments

14. Applicant's arguments, see p.4-5 of applicant's argument, filed 2/16/2006, with respect to **Claim 1** have been fully considered and are persuasive. Therefore, the rejection of **Claims 1-7** has been withdrawn.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen Nguyen whose telephone number is 571-272-8340. The examiner can normally be reached on Monday - Friday, 8 am - 5 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HQN
3/23/2006


MAX HINDENBURG
PATENT EXAMINER
EBC CENTER 3700